

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

* **DOCKET NO. 2:09-CR-230**

v.

* **SECTION: “K”**

OFELIA ODELIA RUBIO

*

a/k/a Obdulia Peagan

a/k/a Ofelia O. Rubio

*

a/k/a Oboulia R. Pagan

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* * *

FACTUAL BASIS

_____Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the indictment now pending against the defendant:

The Defendant, **OFELIA ODELIA RUBIO** (hereinafter “**RUBIO**”) has agreed to plead guilty as charged to the one-count indictment charging her with illegal reentry of a removed alien in violation of Title 8, United States Code, Section 1326(a).

An Immigration and Customs Enforcement agent (the “agent”) would testify that on or about June 26, 2009, he encountered the defendant, **RUBIO**, during criminal alien program duties at the Orleans Parish Prison in Orleans Parish, in the Eastern District of Louisiana. Upon determining the

defendant was illegally in the United States and upon her release from the custody of the State of Louisiana, the defendant was detained and arrested by an Immigration and Customs Enforcement agent.

The agent would testify that he conducted record checks through various Immigration and Customs Enforcement databases, which revealed that the defendant was a citizen of Mexico and illegally present in the United States.

Documentation from the records of Immigration and Customs Enforcement Alien file, including a Warrant of Removal/Deportation, complete with the defendant's fingerprints, photographs and signature, would demonstrate that the defendant, **RUBIO**, was removed from the United States to Mexico on about May 19, 2005, at or near New Orleans, Louisiana. A qualified Immigration and Customs Enforcement Fingerprint Specialist would testify that the fingerprints of the individual documented in the Alien file containing the Warrant of Removal/Deportation and the fingerprints of the defendant are the same. Documentation from the Alien file would further show that the defendant is an alien, and not a citizen or national of the United States.

Testimony of an official from United States Citizenship and Immigration Services regarding record checks conducted through the Computer Linked Application Information Management System would show that the defendant, **RUBIO**, did not receive consent from the United States Attorney General or his designated successor, the Secretary of the Department of Homeland Security, to apply for readmission or receive permission to reenter the United States since the time of the defendant's previous removal.

Further, documents, court records, and other admissible evidence would show that on or

about February 22, 2000, in the Twenty-Fourth Judicial District Court in Gretna, Louisiana, the defendant, **RUBIO**, was convicted of possession of a controlled dangerous substance, a felony.

ROBERT WEIR
Special Assistant United States Attorney
Mississippi Bar No. 101464

Date

OFELIA ODELIA RUBIO
Defendant

Date

CYNTHIA CIMINO
Assistant Federal Public Defender
LA Bar Roll No. 30874
Attorney for the Defendant

Date